

control, or reduce crime, or to apprehend criminals, and the activities of prosecution, court, correctional, probation, pardon, or parole authorities.

(5) Information that may be protected under the (j)(2) exemption includes:

(i) Information compiled for the purpose of identifying criminal offenders and alleged criminal offenders consisting of only identifying data and notations of arrests; the nature and disposition of criminal charges; and sentencing, confinement, release, parole, and probation status.

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; and

(iii) Reports identifiable to an individual, compiled at any stage of the enforcement process, from arrest, apprehension, indictment, or preferral of charges through final release from the supervision that resulted from the commission of a crime.

(6) The (j)(2) exemption does not apply to:

(i) Investigative records maintained by an element having no criminal law enforcement activity as one of its principal functions, or

(ii) Investigative records compiled by any element concerning individuals' suitability, eligibility, or qualification for duty, employment, or access to classified information, regardless of the principal functions of the DoD component that compiled them.

(7) The (j)(2) exemption established for a system of records maintained by a criminal law enforcement element cannot protect law enforcement records incorporated into a non-exempted system of records or any system of records maintained by an element not principally tasked with enforcing criminal laws. Agency system managers are prohibited to incorporate criminal law enforcement records into systems other than those maintained by criminal law enforcement elements.

(b) *Access to records under a (j)(2) exemption.* Requests for access to criminal law enforcement records maintained in a system for which a (j)(2) exemption has been established shall be

processed as if also made under the FOIA.

#### §317.132 Specific exemptions.

(a) *Using specific exemptions.* Specific exemptions permit certain categories of records to be exempted from specific provisions of the Privacy Act. Subsections (k)(1-7) of the Privacy Act permits claiming exemptions for seven categories of records. To be eligible for a specific exemption, the record must meet the corresponding criteria.

(1) (k)(1) exemption: Information properly classified under DoD 5200.1-R<sup>11</sup> (32 CFR part 159) in the interest of national defense or foreign policy.

(2) (k)(2) exemption: Investigatory information compiled for law enforcement purposes. If maintaining the information causes an individual to be ineligible for or denied any right, benefit, or privilege that he or she would otherwise be eligible for or entitled to under Federal law, then he or she shall be given access to the information, except for the information that would identify a confidential source. The (k)(2) exemption, when established, allows limited protection of investigative records normally maintained in a (j)(2) exempt system for use in personnel and administrative actions.

(3) (k)(3) exemption: Records maintained in connection with providing protective services to the President of the United States and other individuals under 18 U.S.C. 3056.

(4) (k)(4) exemption: Records required by Federal law to be maintained and used solely as statistical records that are not used to make any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(5) (k)(5) exemption: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent such material would reveal the identity of a confidential source. This exemption allows protection of confidential sources in background investigations, employment inquiries, and similar inquiries used in personnel

<sup>11</sup> See footnote 3 to §317.1(b).

screening to determine suitability, eligibility, or qualifications.

(6) (k)(6) exemption: Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service if the disclosure would compromise the objectivity or fairness of the testing or examination process.

(7) (k)(7) exemption: Evaluation material used to determine potential for promotion in the military services, but only to the extent that disclosure would reveal the identity of a confidential source.

(b) *Confidential source.* (1) A “confidential source” is defined under the Privacy Act as a person or organization that has furnished information to the Federal Government under an express promise or, before September 27, 1975, under an implied promise that the identity of the person or organization would be held in confidence.

(2) Promises of confidentiality are to be given on a limited basis and only when essential to obtain the information sought. Appropriate procedures should be established for granting confidentiality and designate those categories of individuals authorized to make such promises.

(c) *Access to records under specific exemptions.* Requests for access to records maintained in systems of records for which specific exemptions have been established shall be processed as if also made under the FOIA.

#### **§ 317.133 DCAA exempt record systems.**

(a) *Exempt systems of records.* The Director, DCAA has made a determination and claims an exemption for the following agency systems of records by publication of an appropriate exemption rule for the record system and therefore allowing the agency to invoke, at its discretion, the particular exemption permitted by the Privacy Act from certain subsections of the Privacy Act.

(b) *Classified material.* The Director, DCAA has made a determination that all systems of records maintained by the agency shall be exempt from 5 U.S.C. 552a(d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) to the extent

that the record system contains any information properly classified under Executive Order 12958 and required by the executive order to be withheld in the interest of national defense or foreign policy. This blanket exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain items of information that have been properly classified.

(c) *General exemption rules.* [Reserved]

(d) *Specific exemption rules.* [Reserved]

[57 FR 48992, Oct. 29, 1992, as amended at 61 FR 2916, Jan. 30, 1996]

#### **APPENDIX A TO PART 317—DCAA BLANKET ROUTINE USES**

##### **A. LAW ENFORCEMENT ROUTINE USE**

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

##### **B. DISCLOSURE WHEN REQUESTING INFORMATION ROUTINE USE**

A record from a system of records maintained by this agency may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information, or other pertinent information, such as current licenses, if necessary to obtain information relevant to a agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

##### **C. DISCLOSURE OF REQUESTED INFORMATION ROUTINE USE**

A record from a system of records maintained by this agency may be disclosed to a Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit